IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

Criminal Writ Petition Nos.1672, 1673 & 1674 of 2007

M/s.Sudharshan Capacitors Pvt.Ltd.
and ors. Petitioners

Vs.

Shakti Capacitors Pvt. Ltd. & anr. Respondents

Mr.Umesh Mankapure for petitioners.

Mr.D.P.Adsule, APP in W.P.1672/07, Mr.S.R. Shinde, APP in W.P.1673/07 and Mr.A.S.Shitole, APP in W.P. 1674/07 for State.

CORAM: B.H.MARLAPALLE, J.

September 5, 2007.

P.C.

. Heard Mr.Mankapure, the learned counsel for the petitioners who are impleaded as accused in three different criminal cases filed under Section 138 of the Negotiable Instruments Act, 1881 i.e. Summary Criminal Complaint Nos.741, 742 and 743 of 2001 filed before the learned Judicial Magistrate, First Class at Sangli in respect of three different cheques which were dishonoured. Order of issuance of process was

passed on 10/5/2001 and the same was challenged in three Criminal Revision Applications i.e. CRA Nos.110 to 112 of 2001. By a common judgment and order dated 18th March 2006 the learned Addl. Sessions Judge at Sangli was pleased to dismiss all the three criminal revision applications and hence these three writ petitions filed on or about 29th August 2007 i.e. after about one year and six months from the date of the impugned order passed by the learned Addl. Sessions Judge.

. The main argument against the order of issuance of process appears to be that the dishonoured cheques were given only by way of guarantee and they were not issued against any debt or any other legal liability. It was particularly contended that the accused no.1 - Company had supplied some material and this guarantee was for a particular period and, therefore, the guarantee period was to expire on the dates scribed on the cheques. These are the issues which will have to be gone through after the parties adduce oral and documentary evidence in the pending complaints. The issue of cheques having been drawn to discharge the payment of debt or any other legal liability is a

mixed question of fact and law and, therefore, it would be unsafe to invoke the powers under Section 482 of Cr.P.C. and quash the proceedings at this stage.

. Hence the petitions are rejected summarily.

(B.H.MARL